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10/753,090

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Henry C. Yuen

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EXAMINER

GRAHAM, PAUL J

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/753,090	Applicant(s) YUEN ET AL.	
	Examiner PAUL J. GRAHAM	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/4/08.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/4/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant argues:

Strubbe does not teach a video clip corresponding to a program scheduled for future broadcast and said clip is not displayed upon selection of listing from guide.

The Examiner respectfully disagrees. Reading the claims in the broadest sense, Strubbe does teach a video clip corresponding to a program scheduled for future broadcast and said clip is not displayed upon selection of listing from guide. Applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988, F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The program is selected from Future programs for recording or selecting ("to be recorded, if not watched", Strubbe, col. 5, ll. 55-67). And, the program is displayed upon selection of the listing from the guide, (see Strubbe, col. 5, ll. 1-20).

Any such portion of broadcast programming is simply not a video clip corresponding to a program.

The Examiner respectfully disagrees. A video clip is shown to be a preview of a TV program in [0015] of the instant application. The visual message detailed in Strubbe (see col. 6, ll. 25-50) is exactly that, a preview of a future TV programming before viewing commences and therefore reads upon the limitation.

Strubbe's reminder message for a particular program is activated by pressing a "Channel B" button...

The Examiner respectfully disagrees with the Applicant's analysis of the Strubbe invention. There is no "navigating away" from the listings. There is an identification function for the toggle feature of the reminder clip, which is not relevant if the future broadcast program has been selected for viewing or recording (see Strubbe, col. 5, l. 20-col. 6, l. 25).

Strubbe's "frozen" PIP representation of a scene does not suggest or show displaying a video clip upon selection of a listing...

The Examiner respectfully disagrees. As noted in the Applicant's remarks, 4/4/08, page 14, the frozen clip is a PIP representation (as is the video clip as defined in instant application [0015]). As noted this is an additional means to identify a particular program (future program) from the listing (See Strubbe, col. 5, ll. 20-36). Therefore, reading on the claim limitations.

Ullrich does not show or suggest "displaying a video clip upon selection..."

The Examiner respectfully disagrees. Ullrich does suggest "displaying a video clip upon selection..." (see Ullrich, col. 6, l. 25-col. 8, l. 49). In fact, that is what his illustration of exhibitions of programs represents (see Ullrich, col. 8, ll. 34-49).

Ullrich is silent on exactly when and how the ordered program is displayed.

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The Examiner respectfully disagrees. The Ullrich exposition on ordering a program (e.g., see beginning of explanation on Ullrich, col. 6, ll. 23-30) does show how the program is displayed, there is preview. Therefore, the Ullrich invention does read on the claimed instant invention.

The Applicant's arguments have been fully considered and are not persuasive. Claims 2-13 remain rejected.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 2 - 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Strubbe et al. (US 5 047 867).

As to claim 2, Strubbe discloses a system for displaying a video clip for a television program upon viewer selection of a corresponding television program listing from a television program guide displayed on a display screen, comprising (see Strubbe, col. 3, l. 30-col. 5, l. 40):

means for displaying the television program guide on the display screen (see Strubbe, col. 3, ll. 24-45 and col. 4, ll. 5-11, and figs 10-12, 14);

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means for allowing a viewer to select a television program listing from the television program guide, the television program listing corresponding to a program that is scheduled for future broadcast (see Strubbe, col. 4, ll. 39-46 and col. 7, l. 63-col. 8, l. 7, Reading the claims in the broadest sense, Strubbe does teach a video clip corresponding to a program scheduled for future broadcast and said clip is not displayed upon selection of listing from guide. Applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988, F.2d 1181,26 USPQ2d 1057 (Fed. Cir. 1993). The program is selected from Future programs for recording or selecting ("to be recorded, if not watched", Strubbe, col. 5, ll. 55-67). And, the program is displayed upon selection of the listing from the guide, (see Strubbe, col. 5, ll. 1-20).

The visual message detailed in Strubbe (see col. 6, ll. 25-50) is exactly that, a preview of a future TV programming before viewing commences and therefore reads upon the limitation.

the frozen clip is a PIP representation (as is the video clip as defined in instant application [0015]). As noted this is an additional means to identify a particular program (future program) from the listing (See Strubbe, col. 5, ll. 20-36). Therefore, reading on the claim limitations);

and means for displaying a video clip on the display screen upon selection of the television program listing from the television program guide (see Strubbe, col. 5, ll. 30-36 and col. 6, ll. 45-50, Reading the claims in the broadest sense, Strubbe does teach a video clip corresponding to a program scheduled for future broadcast and said clip is not displayed upon selection of listing from guide. Applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988, F.2d 1181,26 USPQ2d 1057 (Fed. Cir. 1993). The program is selected from Future programs for recording or selecting ("to be recorded, if not watched", Strubbe, col. 5, ll. 55-67). And, the program is displayed upon selection of the listing from the guide, (see Strubbe, col. 5, ll. 1-20).

The visual message detailed in Strubbe (see col. 6, ll. 25-50) is exactly that, a preview of a future TV programming before viewing commences and therefore reads upon the limitation.

the frozen clip is a PIP representation (as is the video clip as defined in instant application

[0015]). As noted this is an additional means to identify a particular program (future program)

from the listing (See Strubbe, col. 5, ll. 20-36). Therefore, reading on the claim limitations).

As to claim 3, Strubbe discloses the system of claim 2 further comprising means for displaying a written description corresponding to the selected television program listing (see figs. 6 and col. 5, ll. 20-33).

As to claim 4, Strubbe discloses the system of claim 2 further comprising means for sequencing through time slots in the television program guide (see figs. 8 and col. 6, ll. 25-37).

As to claim 5, Strubbe discloses the system of claim 2 wherein the means for allowing a user to select a television program listing from the television program guide comprises means for allowing the user to position an on-screen cursor on the television program listing (see Strubbe, figs. 6 and col. 5, ll. 40-47, toggling segment highlighted is "cursor" action).

As to claim 6, Strubbe discloses the system of claim 2 further comprising means for retrieving the video clip corresponding to the selected television program listing upon selection of the television program listing from the television program guide (see Strubbe, col. 5, ll. 30-36 and col. 6, ll. 42-49 and fig. 3, PIP button on remote, fig. 6 PIP on screen).

As to claim 7, Strubbe discloses the system of claim 2 wherein the means for displaying the television program guide comprises means for displaying the television program guide comprising a plurality of television program listings (see figs. 6 and col. 4, ll. 1-47).

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As to claims 8-13, claims 8-13 recites a method but are otherwise similar to claims 2-7, respectively, therefore, claims 8-13 are analyzed similarly to claims 2-7, respectively (see above).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-4, 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ullrich et al. (US 5 583 937) and Strubbe et al. (US 5 047 867).

As to claim 2, Ullrich discloses a system for displaying a video clip for a television program upon viewer selection of a corresponding television program listing from a television program guide displayed on a display screen, comprising (see Ullrich, fig. 1):

means for displaying the television program guide on the display screen (see Ullrich, fig. 1, within 36 is a TV, col. 5 ll. 4-9);

means for allowing a viewer to select a television program listing from the television program guide (see Ullrich, figs. 3 and 4, and col. 6, ll. 23-30);

and means for displaying a video clip corresponding to the selected television program listing on the display screen upon selection of the television program listing from the television program guide (see Ullrich, figs. 3 and 4, and col. 6, ll. 23-30);

Ullrich does suggest “ displaying a video clip upon selection...” (see Ullrich, col. 6, l. 25-col. 8, l. 49). In fact, that is what his illustration of exhibitions of programs represents (see Ullrich, col. 8, ll. 34-49);

however, the Ullrich reference is further supported with the combination of the Strubbe reference. Strubbe, who teaches an interface for a TV system does teach a displaying of video clip upon selection of a program from a guide listing:

means for allowing a viewer to select a television program listing from the television program guide, the television program listing corresponding to a program that is scheduled for future broadcast (see Strubbe, col. 4, ll. 39-46 and col. 7, l. 63-col. 8, l. 7, Reading the claims in the broadest sense, Strubbe does teach a video clip corresponding to a program scheduled for future broadcast and said clip is not displayed upon selection of listing from guide. Applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988, F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The program is selected from Future programs for recording or selecting ("to be recorded, if not watched", Strubbe, col. 5, ll. 55-67). And, the program is displayed upon selection of the listing from the guide, (see Strubbe, col. 5, ll. 1-20).

The visual message detailed in Strubbe (see col. 6, ll. 25-50) is exactly that, a preview of a future TV programming before viewing commences and therefore reads upon the limitation.

the frozen clip is a PIP representation (as is the video clip as defined in instant application [0015]). As noted this is an additional means to identify a particular program (future program) from the listing (See Strubbe, col. 5, ll. 20-36). Therefore, reading on the claim limitations);

and means for displaying a video clip on the display screen upon selection of the television program listing from the television program guide (see Strubbe, col. 5, ll. 30-36 and col. 6, ll. 45-50, Reading the claims in the broadest sense, Strubbe does teach a video clip corresponding to a program scheduled for future broadcast and said clip is not displayed upon selection of listing from guide. Applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van*

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Geuns, 988, F.2d 1181,26 USPQ2d 1057 (Fed. Cir. 1993). The program is selected from Future programs for recording or selecting ("to be recorded, if not watched", Strubbe, col. 5, ll. 55-67). And, the program is displayed upon selection of the listing from the guide, (see Strubbe, col. 5, ll. 1-20).

The visual message detailed in Strubbe (see col. 6, ll. 25-50) is exactly that, a preview of a future TV programming before viewing commences and therefore reads upon the limitation.

the frozen clip is a PIP representation (as is the video clip as defined in instant application

[0015]). As noted this is an additional means to identify a particular program (future program)

from the listing (See Strubbe, col. 5, ll. 20-36). Therefore, reading on the claim limitations).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the system of Ullrich with the system of Strubbe in order to present to the user future programming with the option to act on said programming (e.g., watch or record) as well as allow the viewer a visual indicator of the programming content (see Strubbe, fig. 6-8) (see Strubbe, col. 1, ll. 35-42).

As to claim 8, claim 8 is similar to claim 2 and therefore analyzed like claim 2 (see claim 2, Ullrich above).

As to claim 3, Ullrich discloses the system of claim 2 further comprising means for displaying a written description corresponding to the selected television program listing.

Ullrich does not explicitly teach a written description; however in view of the fact that the character generator can be used to generate any textual information and that the menu is displayed to inform the viewer,

it therefore, would have been obvious to one of ordinary skill in the art at the time the invention was made to give a brief description of the programming thereby giving the viewer a

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better indication of what the programming is, in order to encourage selection of the promotional video.

As to claim 9, claim 9 is similar to claim 3 and therefore is analyzed similarly (see Ullrich, clm 3 above).

As to claim 4, Ullrich discloses the system of claim 2 further comprising means for sequencing through time slots in the television program guide (see Ullrich, col. 5, ll. 4-8 and col. 6, ll. 27-31 for menu of available programs (channels) and show times and the ordering allows choice of different programs, hence sequencing through time to preview programs is available).

As to claim 10, claim 10 is similar to claim 4 and therefore is analyzed similarly (see Ullrich, clm 4 above).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Inquiries

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul J. Graham whose telephone number is 571-270-1705. The examiner can normally be reached on Monday-Friday 8:00a-5:00p EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on 571-272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

pjg
6/29/08

/Vivek Srivastava/
Supervisory Patent Examiner, Art Unit 2623